

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**TENTATIVE ORDER NO. R9-2003-0215  
NPDES NO. CAG999001**

**GENERAL WASTE DISCHARGE REQUIREMENTS  
FOR  
WASTE DISCHARGES ASSOCIATED WITH MARINA OPERATIONS  
TO  
COASTAL WATERS IN THE SAN DIEGO BASIN**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. There are more than 40 coastal marinas in the San Diego Basin that provide docking facilities for boats. Marinas are located throughout the San Diego Basin. The majority of marinas are located in the Del Mar Boat Basin (specifically the U.S. Marine Corps Base Camp Pendleton) and four other harbors in the Region: Dana Point Harbor in Orange County, and Oceanside Harbor, Mission Bay, and San Diego Bay in San Diego County.
2. For the purposes of this permit marinas are defined as establishments classified under Standard Industrial Classification code 4493 (and North American Industry Classification System Code 713930) and engaged in operating docking and/or storage facilities for pleasure craft owners, with or without one or more related activities, such as retailing fuel and marine supplies; and repairing, maintaining, or renting pleasure boats.
3. Marinas that have the potential to discharge waste to waters of the State and pollutants from point sources to waters of the United States must be regulated by a National Pollutant Discharge Elimination System (NPDES) Permit.
4. Within marinas, various activities are conducted that may lead to the discharge of wastes and wastewaters into the surrounding surface water. The specific types of activities that can result in the discharge of pollutants include, but are not limited to, the following:
  - a. The illegal release of sewage from vessels within a marina, or the misuse or malfunctioning of sewage pumpout facilities.
  - b. Fueling dock operations for use by resident and visiting boaters.
  - c. General marina operations that result in the deposition of debris on the ground and light enough to be swept away by flowing storm water.

- d. Boat cleaning, maintenance, and repair.
5. Marinas in the San Diego Basin that contain slips for 10 or more boats shall be subject to this General Permit. Houseboats, vessels primarily rigged for use as a residence rather than for transportation, may also be docked at marinas. This permit does not cover marinas used for military purposes; however, marinas intended for recreational use by the military in the applicable water bodies are regulated under this General Permit. This permit also does not apply to moorings and anchorages outside marinas as well as to discharges from marinas located in inland waters such as lakes and reservoirs.
6. The USEPA granted the State of California, hence the State and Regional Boards, the authority to issue general NPDES permits pursuant to 40 CFR Sections 122 and 123.
7. NPDES Regulations, 40 CFR 122.28, provide for the issuance of general permits to regulate discharges of waste which result from similar operations with the same types of waste, require the same effluent limitations, and require similar monitoring, are more appropriately regulated under a general permit rather than individual permits.
8. This Order shall serve as a general NPDES permit for waste discharges associated with marina operations to surface waters in the San Diego Basin pursuant to Section 402 of the federal Clean Water Act, and amendments thereto.
9. The NPDES regulations at 40 CFR §122.44(k), allow the use of best management practices (BMPs) in NPDES permits to control or abate the discharge of pollutants when among other reasons, numeric effluent limitations are infeasible and when the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purpose and intent of the Clean Water Act.
10. To minimize potential impacts from waste discharges from marina operations on the beneficial uses of surface waters within the Del Mar Boat Basin and harbors of San Diego Bay, Mission Bay, Dana Point, Oceanside, and other applicable coastal water bodies, this Order requires marina operators regulated under this General Permit to develop and implement a Marina Pollution Prevention Plan (MPPP). The MPPP would be a plan developed by each individual marina comprising of BMPs that would result in the protection of water quality. A MPPP that incorporates BMPs should be an effective method to abate the potential for the discharge of pollutants and waste from the marina and not expected to have a significant impact on the beneficial uses of surface waters within the San Diego Region.
11. The Regional Board acknowledges that there are a number of existing programs and initiatives that are designed to encourage the use of management practices for activities occurring at marinas. Currently marinas and boat owners are encouraged by various state and industry organizations to implement BMPs that minimize or prevent the discharge of pollutants into surface waters. The BMPs focus on actions that will completely eliminate or greatly reduce the discharge of pollutants into the water

bodies. Many marinas and boat owners are already incorporating these BMPs as standard operating procedure.

12. Waste discharges associated with marina operations that must be addressed in an MPPP required under this General Permit include, but are not limited to, discharges that result from the following industrial-type activities:
  - a. Sewage pump-out facility operations.
  - b. Fuel station operations.
  - c. General marina operations that result in the deposition of debris on the ground and light enough to be swept away by flowing storm water.
  - d. Underwater hull cleaning.
13. For the purpose of this permit, “wastes associated with industrial-type activities” shall be defined as petroleum products, raw sewage, partially-treated sewage, paints, paint chips, solvents, abrasives, engine or boat parts, and any other by-products associated with maintenance, sewage pumpout, fueling, washing, and underwater hull cleaning activities that occur at marinas. This definition does not include the discharge of minor amounts of marine fouling organisms, such as bacteria and diatoms in the slime layer, removed from boat hulls during normal periodic in-water hull cleaning.
14. For coverage under this General Permit, a marina operator (hereinafter enrollee) is required to submit a complete General Permit Authorization Application (see Attachment A) together with information described in *Application Requirements, E* and to receive approval from the Executive Officer. If the proposed discharge meets the requirements of this General Permit, the Executive Officer will provide the enrollee with a written authorization letter to initiate the discharge.
15. Establishments primarily engaged in the building of, or repairing, boats and ships cannot be covered under this General Permit, and must apply to the Regional Board for coverage under an individual permit for discharges to surface waters. Establishments primarily engaged in the operation of charter or party fishing boats, or rental of small recreational boats, are not covered by this permit.
16. The General Permit does not cover marinas located at military installations which are used for military purposes; however, marinas intended for recreational use by the military in the applicable water bodies are regulated under the General Permit. The permit also does not apply to moorings and anchorages outside marina boundaries or to discharges from marinas located in inland waters such as lakes and reservoirs.
17. Storm water discharges associated with industrial activities are also not covered under this General Permit. These storm water discharges are covered under the State NPDES General Permit No.CAS000001, Waste Discharge Requirements (WDRs) for

Discharges Of Storm Water Associated With Industrial Activities Excluding Construction Activities. More specifically, the State NPDES General Permit No. CAS000001 regulates storm water discharges from transportation facilities, including marinas, that conduct any type of vehicle maintenance such as fueling, cleaning, repairing.

18. Authorization to discharge wastes in accordance with the provisions of this General Permit does not relieve the marina operator or marina tenants from their responsibilities to comply any other federal, State, or local requirements, including, but not limited to, the following:
- a. Under CWA section 311(j)(1)(C)), facilities with fueling facilities are required to train employees on proper response to oil spills. An engineer certified Spill Prevention Control, and Countermeasures (SPCC) plan is also required under 40 CFR Part 112 for various marinas based on the means of storage and the volume of petroleum stored on-site.
  - b. It is illegal under federal law to discharge sewage from boats in navigable U.S. waters, including coastal waters up to 3 miles offshore. Boats with installed toilets must have an operable and certified marine sanitation device (MSD) pursuant to CWA Section 312 that either holds sewage for pumpout or discharge beyond the 3-mile limit, or that treats the sewage to federal standards prior to discharge.
  - c. The California Code of Regulations (23, Chapter 20, 20.1) contains criteria for the design, construction, operation, and maintenance of sewage pumpout facilities and specifies administrative procedures to be followed to provide a standard method of determining which marine terminal shall be required to install and operate pumpout facilities.
  - d. Boaters must also comply with Section 312 of the CWA that allows states to designate various waters as “no discharge zones” (NDZs). An NDZ is an area of a waterbody or an entire waterbody into which the discharge of sewage (whether treated or untreated) from all vessels is completely prohibited. NDZs are designed to give states an additional tool to address water quality issues associated with sewage contamination. The waters located in the harbors of Mission Bay, Dana Point, and Oceanside, in their entirety, are designated as NDZs. In addition, the shallower waters in San Diego Bay to a depth of 30 feet at mean lower low water (MLLW), are also designated a NDZ.
  - e. Marinas that discharge storm water into the municipal separate storm sewer system (MS4) may be required under the Municipal Separate Storm Sewer System Permit for the San Diego Region (CAS0108758) to implement site and source specific BMPs designated by a City or County Copermittees.
  - f. The federal Organotin Antifouling Paint Control Act of 1998 (33 U.S.C. 2401) places limitations on the use of tributyltin (TBT) in antifouling paints based on

- the size and use of the vessel, and the hull material. In addition The USEPA Office of Pesticide Programs under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act registers copper anti-fouling paints for use on boat hulls. The California Department of Pesticide Regulation may impose additional controls on registered paints under the California Agriculture Code.
- g. This Order regulates the discharge of pollutants associated with industrial-type activity at marinas to surface waters. It does not preempt or supersede the authority of municipalities, flood control agencies, or other local agencies to prohibit, restrict, or control discharges of storm water to storm drain systems, sanitary sewer systems, or other water courses subject to their jurisdiction.
19. The Regional Board or the Director of the United States Environmental Protection Agency (USEPA) may require any person requesting authorization to discharge under this Order to apply for and obtain an individual NPDES permit. Cases where an individual NPDES permit may be required include, but are not limited to, those described in 40 CFR 122.28 (b)(3).
20. Effluent limitations and toxic and effluent standards established pursuant to Section 301, 302, 303, 304, 306, 307, and 403 of the federal Clean Water Act (CWA), as amended (33 U.S.C., Section 1251 et seq.), are applicable to discharges regulated under this Order.
21. The State Water Resources Control Board (hereinafter State Board), in the *Water Quality Control Policy for Enclosed Bays and Estuaries of California* (Bays and Estuaries Policy) promulgated water quality principles, quality requirements for waste discharges, discharge prohibitions, and general provisions to prevent water quality degradation and to protect the beneficial uses of waters in the enclosed bays and estuaries of California.
22. Waste discharges associated with marina operations, as regulated limited by Order No. R9-2003-0215, will comply with the Bays and Estuary Policy provided that discharges comply with *Special Conditions, F*, of this Order.
23. The *Comprehensive Water Quality Control Plan, San Diego Basin (9)* (Basin Plan) contains prohibitions applicable to discharges to surface waters. The applicable prohibitions of the Basin Plan have been incorporated herein as Attachment B.
24. The Basin Plan establishes the following beneficial uses for the waters of Del Mar Boat Basin, Dana Point Harbor, and Oceanside Harbor:
- a. Commercial and Sport Fishing
  - b. Contact Water Recreation
  - c. Industrial Service Supply
  - d. Marine Habitat
  - e. Migration of Aquatic Organisms
  - f. Navigation

- g. Non-contact Water Recreation
- h. Rare, Threatened, or Endangered Species
- i. Shellfish Harvesting
- j. Spawning, Reproduction, and/or Early Development
- k. Wildlife Habitat

25. The Basin Plan establishes the following beneficial uses for the waters of Mission Bay:

- a. Commercial and Sport Fishing
- b. Contact Water Recreation
- c. Estuarine Habitat
- d. Industrial Service Supply
- e. Marine Habitat
- f. Migration of Aquatic Organisms
- g. Non-contact Water Recreation
- h. Rare, Threatened, or Endangered Species
- i. Shellfish Harvesting
- j. Spawning, Reproduction, and/or Early Development
- k. Wildlife Habitat

26. The Basin Plan establishes the following beneficial uses for the waters of San Diego Bay:

- a. Commercial and Sport Fishing
- b. Contact Water Recreation
- c. Estuarine Habitat
- d. Industrial Service Supply
- e. Migration of Aquatic Organisms
- f. Navigation
- g. Non-contact Water Recreation
- h. Preservation of Biological Habitats of Special Significance
- i. Rare, Threatened, or Endangered Species
- j. Shellfish Harvesting
- k. Spawning, Reproduction, and/or Early Development
- l. Wildlife Habitat

27. Other applicable coastal water bodies not previously defined may include the following beneficial uses as defined in the Basin Plan.

- a. Aquaculture
- b. Commercial and Sport Fishing
- c. Contact Water Recreation
- d. Estuarine Habitat
- e. Industrial Service Supply
- f. Migration of Aquatic Organisms

- g. Navigation
  - h. Non-contact Water Recreation
  - i. Preservation of Biological Habitats of Special Significance
  - j. Rare, Threatened, or Endangered Species
  - k. Shellfish Harvesting
  - l. Spawning, Reproduction, and/or Early Development
  - m. Warm Freshwater Habitat
  - n. Wildlife Habitat
28. The USEPA promulgated the final California Toxic Rule (CTR) on May 18, 2000, as required by Section 303(c)(2)(B) of the federal Clean Water Act. The CTR regulations, codified in 40 CFR 131.38, establish numeric criteria for water quality standards for priority toxic pollutants for the State of California.
29. The *Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (Implementation Policy) provides guidance for the development of effluent limits for priority toxic pollutants that will be consistent with water quality criteria for such pollutants promulgated by the USEPA in 40 CFR 131.38.
30. Enrollees for coverage under this General Permit will be required by the Regional Board to participate in regional monitoring programs to address ambient conditions and compliance with this permit. Because sufficient data is not available to conduct a reasonable potential analysis for the surface waters affected by this General Permit, the analysis was not performed for discharges associated with marina operations. During the monitoring or upon completion of the monitoring, the Regional Board could use the monitoring data to conduct a reasonable potential analysis to determine if water quality-based effluent limitations as specified in 40 CFR 122.44(d)(1)(i) are appropriate.
31. Pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (collectively "Antidegradation Policies"), antidegradation analysis is not necessary since Order No. R9-2003-0215 protects existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.
32. The requirements contained in this Order are consistent with and are established by considering, all water quality control policies, plans, and regulations mentioned above and, if the requirements are met, will protect and maintain the beneficial uses of the receiving waters.
33. Discharges covered under this General Permit are not expected to cause toxicity, therefore no acute or chronic toxicity limits are specified in this Order.
34. This General Permit is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (Public Resources Code,

Division 13, Chapter 3, Section 21000 et seq.) in accordance with the California Water Code, Section 13389.

35. The Regional Board, in establishing the requirements contained herein, considered factors including, but not limited to, the following:
- a. Beneficial uses established for the Del Mar Boat Basin and harbors of San Diego Bay, Mission Bay, Dana Point, Oceanside, and any other applicable coastal water bodies, such as marine, estuarine and wildlife habitats, to be protected and the water quality objectives reasonably required for that purpose;
  - b. The need to prevent nuisance, such as obstruction to the free use of property;
  - c. Environmental characteristics of the waters under consideration; and
  - d. Water quality conditions that could reasonably be achieved through the implementation of a MPPP that emphasizes pollution prevention measures.
36. Portions of harbor waters where marinas are located or could be located are currently not meeting applicable water quality standards and are designated as impaired pursuant to Clean Water Act Section 303 (d). The Clean Water Act requires the Regional Board to calculate Total Maximum Daily Loads (TMDLs) for all Section 303 (d) listed water bodies in order to attain applicable water quality standards. The Regional Board is currently developing a TMDL to address waste discharges of copper in the Shelter Island Yacht Basin portion of San Diego Bay. Similar TMDLs addressing waste discharges in marinas may be developed in the future. Federal regulations require that NPDES permit effluent limitations be established consistent with wasteload allocations developed under applicable TMDLs. This permit may be modified to include wasteload allocations established by the TMDLs.
37. Copper sources in the vicinity of marinas could include disposal of solid wastes containing brass and bronze, passive leaching of copper from boat anti-fouling paints, and copper released due to underwater hull cleaning. Most of the copper loading to receiving waters from marinas results from passive leaching from anti-fouling paints. Marina operators at this time will not be required to reduce copper leaching from anti-fouling paints lawfully applied to boat hulls.
38. This Order or the written authorization letter shall be modified or revoked at any time if, on the basis of any data, the Regional Board determines that continued discharges may cause unreasonable degradation of the aquatic environment.
39. This Order or the written authorization letter does not convey any property rights of any sort, or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property of another, nor protect the marina operator from liabilities under federal, state, or local laws, nor create a vested right for the Enrollee to continue the waste discharge.



40. It shall not be a defense for the marina operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order or the written authorization letter.
41. The Regional Board has notified all known interested parties of its intent to adopt this general NPDES permit for waste discharges associated with marina operations to surface waters within San Diego Basin and has provided them with an opportunity to submit their written comments and recommendations.

IT IS HEREBY ORDERED, that each authorized discharger, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder and the provisions of the Clean Water Act and the regulations adopted thereunder, shall comply with the following:

**A. PROHIBITIONS**

1. The discharger shall comply with all requirements of the Basin Plan Waste Discharge Prohibitions, which are hereby included in Attachment B to this Order.
2. The discharge of sewage, except as noted in the Basin Plan Waste Discharge Prohibitions, is prohibited.
3. The discharge of rubbish, refuse, debris, materials of petroleum origin, waste zinc plates, abrasives, primer, paint, paint chips, solvents, and the deposition of such wastes at any place where they could eventually be discharged is prohibited. (Rubbish and refuse include any cans, bottles, paper, plastic, vegetable matter, or dead animals deposited or caused to be deposited by man.)
4. The discharge of wastes and pollutants from underwater operations, such as underwater paint and/or coating removal and underwater hull cleaning using tools or methods which result in excessive and unnecessary antifouling paint removal is prohibited. This prohibition does not apply to the discharge of marine fouling organisms, such as bacteria and diatoms in the slime layer, removed from unpainted and uncoated surfaces by underwater operations, or marine fouling organisms removed from the hulls of boats utilizing BMPs as described in an approved MPPP.

**B. DISCHARGE SPECIFICATIONS**

1. Discharges shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in 40 CFR 117 and/or 40 CFR 302.
2. Waste discharges shall be discharged in a manner so as to achieve the most rapid initial dilution practicable to minimize concentrations of substances not removed by source control or treatment.

3. Waste management (e.g., waste storage facilities, waste handling) shall be designed and maintained so as to prevent the discharge of pollutants and maintain indigenous marine life and a healthy and diverse marine community.
4. Waste discharges shall be free of:
  - a. Material that is floatable or will become floatable upon discharge.
  - b. Settleable material or substances that may form sediments which will degrade benthic communities or other aquatic life.
  - c. Substances that will accumulate to toxic levels in marine waters, sediments, or biota.
  - d. Materials that result in aesthetically undesirable discoloration of receiving waters.
  - e. Substances that significantly decrease the natural light to benthic communities and other marine life.

#### **C. RECEIVING WATER LIMITATIONS**

Discharges shall not cause or contribute to violations of the following receiving water limitations:

1. The discharge shall not cause the following to be present in receiving waters:
  - a. Toxic pollutants at concentrations that will bioaccumulate in aquatic life to levels that are harmful to aquatic life or human health;
  - b. Biostimulatory substances at concentrations that promote aquatic growth to the extent that such growth causes nuisance or adversely affects beneficial uses;
  - c. Chemical substances in amounts that adversely affect any designated beneficial use;
  - d. Visible floating materials, including solids, liquids, foams, and scum;
  - e. Oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the receiving water or on objects in the water;
  - f. Suspended or settleable materials in concentrations that cause nuisance or adversely affect beneficial uses;

- g. Taste or odor-producing substances in concentrations that alter the natural taste, odor, and/or color of fish, shellfish, or other edible aquatic resources; cause nuisance; or adversely affect beneficial uses; and
  - h. Substances that result in increases of BOD<sub>5</sub>20°C (5-day, 20°C biochemical oxygen demand) that adversely affect beneficial uses.
- 2. The discharge shall not cause the following to occur in the receiving waters:
  - a. The dissolved oxygen concentration in ocean waters shall not at any time be depressed more than 10 percent from that which occurs naturally, as the result of the discharge of oxygen demanding wastes.
  - b. Changes in ambient pH levels shall not exceed 0.2 units in waters designated MARINE, or ESTUARINE, or SALINE. Changes in normal ambient pH levels shall not exceed 0.5 units in fresh waters designated COLD or WARM;
  - c. The temperature at any time or place and within any given 24-hour period to be altered by more than 5°F above natural temperature; but at no time be raised above 80°F for waters designated WARM;
  - d. The turbidity to increase to the extent that such an increase causes nuisance or adversely affects beneficial uses; such increase shall not exceed 20% when the natural turbidity is over 50 NTU or 10% when the natural turbidity is 50 NTU or less;
  - e. Residual chlorine in concentrations that persist and impairs beneficial uses;
  - f. Any individual pesticide or combination of pesticides in concentrations that adversely affect beneficial uses or increase pesticide concentration in bottom sediments or aquatic life; and
  - g. Sedimentation in the receiving water.
- 3. The discharge shall not alter the color, create a visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters.
- 4. The discharge shall not degrade surface water communities and population including vertebrate, invertebrate, and plant species.
- 5. The discharge shall not damage, discolor, nor cause formation of sludge deposits on flood control structures, storm water conveyance systems or other facilities nor overload their design capacity.

#### **D. ELIGIBILITY**

1. This Order is applicable to existing and future discharges that result from the following:
  - a. Industrial-type activities from marinas, classified under Standard Industrial Classification code 4493 (and North American Industry Classification System Code 713930); and
  - b. Marinas located in coastal waters within the San Diego Basin.
2. Enrollees must meet the following criteria to be covered under this Order:
  - a. Waste discharges shall not cause violation of any applicable water quality objective for the receiving waters, including discharge prohibitions;
  - b. Develop and implement an approved MPPP.
3. Current or existing discharges, which meet the eligibility criteria, must submit an application (pursuant to *Application Requirements, E, and Reporting Requirements, H*) to obtain authorization to discharge.
4. When an individual NPDES permit with more specific requirements for discharges associated with industrial-type activities from marinas is issued to an Enrollee, the applicability of this Order to that Enrollee is automatically terminated on the effective date of the individual permit.

#### **E. APPLICATION REQUIREMENTS**

All new applicants shall submit an application within 60 days of the effective date of this Order to obtain an Enrollment Letter from the Executive Officer. The application shall consist of the following information:

1. Completed General Permit Authorization Application Form (see Attachment A).
2. A map showing the exact location of the marina and possible discharge locations (e.g., fueling station, sewage pumpout facility, maintenance areas)
3. A check or money order, payable to the "State Water Resources Control Board", for the first annual fee.
4. Any other information deemed necessary by the Executive Officer.

All applications, reports, and information submitted shall be signed by a corporate officer, principal executive officer, general partner or ranking elected official. In no case should a consultant or contractor sign any documents.

## **F. SPECIAL CONDITIONS**

1. The marina operator shall develop, implement, and maintain an adequate MPPP to reduce, or when possible to prevent to discharge of wastes and pollutants to surface waters. The objectives of the MPPP are to 1) identify and evaluate sources of pollutants associated with activities being conducted at the marina that have the potential to be discharged to surface waters and 2) identify and implement site-specific BMPs to reduce or prevent pollutants associated with marina activities from discharging into surface waters from the facility. In order to achieve these objectives, each MPPP must address each of the following components described below.
  - a. Planning and Organization. The MPPP must describe how the marina operator intends to develop and implement the MPPP. The MPPP shall specifically:
    - i. Identify individual or individuals, and their positions within the facility organization, who will be responsible for developing the MPPP, implementing and revising, as necessary, the MPPP, and conducting all monitoring and reporting program activities required by this General Permit. The MPPP shall clearly identify the General Permit related responsibilities, duties, and activities of each team member.
    - ii. Incorporate or reference the appropriate elements of other plans or programs currently being implemented by the marina as a result of other regulatory requirements or participation in voluntary programs. Marina operators should review all local, State, and federal requirements that impact, complement, or are consistent with the requirements of this General Permit (e.g., storm water general permit requirements). Marina operators should identify any existing facility plans that contain pollutant control measures or relate to the requirements of this General Permit.
  - b. Site Map. As part of the development of the MPPP, each marina operator shall develop a site map that should be used to assist in assessing possible pollutant sources from marina activities and operations. The following must be identified on each site map:
    - i. The facility boundaries; the outline of all storm water drainage areas within the facility boundaries; portions of the drainage area impacted by run-on from surrounding areas; direction of flow of

each drainage area, on-site water bodies, areas of soil erosion; and the location of fueling stations, sewage pumpout facilities, boat washing areas, or any other location that industrial type activity takes place. The map shall also identify adjacent water bodies and municipal storm drain inlets where the facility's storm water discharges and authorized non-storm water discharges may be received.

- ii. The location of the on-site storm water collection and conveyance system, associated points of discharge, and direction of flow. Include any structural control measures that affect storm water discharges, authorized non-storm water discharges, and run-on.
  - iii. An outline of all impervious areas of the facility, including paved areas, buildings, covered storage areas, or other roofed structures. The map should indicate dimensions of the impervious areas.
  - iv. Locations where materials (e.g., paint, solvents, fuel) are directly exposed to precipitation and the locations where significant spills or leaks have occurred.
- c. Material Identification. The marina operator shall develop an inventory of materials used or stored within the marina boundaries to assist in assessing possible pollutant sources from marina activities and operations. The MPPP, at a minimum, shall specifically prepare the following:
- i. A list of materials handled and stored at the marina site. For each material describe the locations where the material is being stored and handled, as well as the typical quantities and frequency. Material shall include raw materials, intermediate products, final or finished products, recycled materials, and waste or disposed materials.
- d. Activities Identification. The MPPP shall include a narrative description of the marina's activities, associated potential pollutant sources, and potential pollutants that could be discharged. At a minimum, the following items related to a marina's activities and operations shall be considered:
- i. Activity Description – Describe each activity (fueling, boat washing, boat maintenance, boat painting, etc.) and the type, characteristics, and quantity of materials used in or resulting from the activity. Where applicable, areas protected by containment structures and the corresponding containment capacity shall be described.

- ii. Material Handling and Storage Areas – Describe each handling and storage area, type, characteristics, and quantity of materials handled or stored. Any existing spill or leak prevention and response procedures shall also be identified. Where applicable, areas protected by containment structures and the corresponding containment capacity shall be described.
- iii. Dust and Particle Generation Activities – Describe all activities that generate dust or particulates that may be deposited within the marina's boundaries and identify their discharge locations; the characteristics of dust and particulate pollutants; the approximate quantity of dust and particulate pollutants that may be deposited within the marina boundaries; and a description of the primary areas of the marina where dust and particulate pollutants would settle.
- iv. Significant Spills and Leaks – Describe materials that have spilled or leaked in significant quantities into surface waters within the last 5 years. The description shall include the type, characteristics, and approximate quantity of the material spilled or leaked, and the cleanup or remedial actions that have occurred or are planned.
- e. Assessment of Pollutant Discharge Potential. The MPPP shall include a narrative assessment of all marina activities and operations, associated potential pollutant sources, and potential pollutants that could be discharged to surface waters. At a minimum, the following shall be addressed:
  - i. Identification of the locations of potential pollutants (i.e., which areas of the facility are likely sources of pollutants in storm water discharges and non-storm water discharges).
  - ii. Identification of which pollutants are likely to be present in discharges to surface waters.
- f. Best Management Practices. The MPPP shall include a narrative description of the existing BMPs and new BMPs to be implemented at the marina for each potential pollutant and its source identified in the assessment phase. The BMPs shall be developed and implemented as to reduce or prevent pollutants in discharges into receiving water bodies. Specific BMPs that must be considered include, but are not limited to, the following:
  - i. BMPs designed to address potential discharges from sewage pump-out facilities and ensure pump-out facilities are operating properly.

- ii. BMPs to address fuel station operations, ensuring that fuel and oil spills are prevented, identified, and cleaned up.
  - iii. BMPs that address prevention of pollutants contained in storm water run-off from areas not regulated under the State general permit for discharges of storm water associated with industrial activities.
  - iv. BMPs that minimize/prevent the discharge of pollutants resulting from underwater hull cleaning.
  - v. BMPs that minimize/prevent the discharge of pollutants resulting from activities at marinas not specifically addressed in F.1.f.i. through F.1.f.iv. above.
- g. Training. All staff employed by each individual marina is required to be trained on the BMPs and procedures contained in the MPPP. The MPPP should be effectively communicated to tenants, visitors, and contractors. The marina can incorporate environmental policies in contracts for slip-holders, live-aboards, boat maintenance contractors, and others that might contract with the marina. Signs should be posted to convey environmental policies in conspicuous places (fuel docks, pump-out stations, recycling stations, marina office.)
2. The marina operator must perform daily visual monitoring and quarterly site evaluations as described in the Monitoring and Reporting Program No. R9-2003-0215. The MPPP shall be revised as appropriate, and the revisions implemented within 90 days of the evaluation.
  3. The MPPP and all associated documents required in the Monitoring and Reporting Program (i.e. visual monitoring logs, quarterly site evaluations, quarterly spill/illicit discharge logs, and annual summaries of spills submitted to the RWQCB) shall be retained on-site and made available upon request by a representative of the RWQCB.
  4. The MPPP is considered a report that shall be available to the public under Section 308(b) of the CWA. Upon request by members of the public, the marina operator shall make available for review a copy of the MPPP directly to the requestor.
  5. The MPPP shall include the signature and title of the person responsible for preparation of the MPPP, the date of initial preparation, and the person and date for each amendment thereto.
  6. The marina operator shall submit a copy of the site-specific MPPP to the Regional Board, and be in full compliance with the MPPP no later than 1 year after the



adoption of this Order. If a marina wishes to apply for coverage under this Order subsequent to this date, a MPPP must be submitted with the NOI.

7. Where the Regional Board determines that the enrollee's MPPP is not maintained or adequate, the marina operator shall amend its MPPP accordingly, in accordance with time frames specified by the Regional Board. Where the Regional Board determines that the marina operator is not adequately implementing its MPPP, the enrollee shall immediately modify implementation of its MPPP accordingly.

## **G. PROVISIONS**

1. Neither the treatment nor the discharge of wastes shall create a pollution, contamination, or nuisance as defined by Section 13050 of the California Water Code.
2. The Enrollee shall take all reasonable steps to minimize, correct, or prevent any adverse impact on the environment resulting from noncompliance with this Order or the Enrollment Letter, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the non-complying discharge.
3. The Enrollee shall comply with the effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations, even if this Order has not yet been modified to incorporate the requirement.
4. An authorized discharge, either separately or jointly with any other discharge, shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Regional Board or the SWRCB as required by the CWA and regulations adopted there under. If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the CWA or amendments thereto, the Regional Board will revise and modify this Order in accordance with the more stringent standards.
5. This Order or the Enrollment Letter is not transferable to any person/agency except after notice to the Regional Board. The Regional Board may require the transmittal of a new application to change the name of the Enrollee and incorporate such other requirements as may be necessary under the California Water Code and the Clean Water Act. The Enrollee shall submit notice of any transfer of this Order's responsibility and coverage to a new Enrollee as described under *Reporting Requirements, H.3*.
6. The Enrollee shall allow the Regional Board, or an authorized representative or any representative of the USEPA, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the Enrollee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
  - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
  - c. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
  - d. Sample or monitor at reasonable times, for the purpose of assuring compliance with this Order or as otherwise authorized by the Clean Water Act or California Water Code, any substances or parameters at any location.
7. A copy of this Order and the Enrollment Letter shall be posted at a prominent location at or near the Enrollee's facility or activity, and shall be available to operating personnel at all times.
8. The provisions of this Order and the Enrollment Letter are severable and if any provision of this Order or the Enrollment Letter, or the application of any provision of this Order or the Enrollment Letter, to any circumstances is held invalid, the application of such provision to other circumstances, and the remainder of this Order and the Enrollment Letter, shall not be affected thereby.
9. This Order does not exempt the Enrollee from compliance with any other laws, regulations, or ordinances that may be applicable.
10. The marina operator shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the marina operator to achieve compliance with the conditions of this Order. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls including appropriate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Order.
11. The marina operator shall comply with all items of the 40 CFR 122.41 and 122.42 Standard Provisions that are part of this Order (Attachment C).
12. All applications, reports, or information submitted to the Regional Board shall be signed and certified in accordance with 40 CFR 122.22 (Attachment C).

13. The Enrollee shall comply with all the monitoring requirements as established by the Regional Board, including, but not limited to a regional monitoring plan in cooperation with the applicable local Port Districts or Harbor Authorities.

## **H. REPORTING REQUIREMENTS**

1. Annually, the marina operator shall evaluate the data collected pursuant to Monitoring and Reporting Program No. R9-2003-0215 and determine if the data indicates that the discharge has caused or contributed to an exceedance of applicable water quality objectives or impairment of water quality needed for designated beneficial uses in the receiving water body.
2. The Enrollee shall give advance notice to the Regional Board of any planned changes in the permitted facility or activity that may result in noncompliance with the requirements of this Order or the Enrollment Letter.
3. The Enrollee must notify the Regional Board in writing, at least 30 days in advance of any proposed transfer of enrollment and responsibility for compliance with this Order to a new Enrollee. The notice must include a written agreement between the existing and new Enrollee containing a specific date for the transfer of this Order's responsibility and enrollment between the current Enrollee and the new Enrollee. This agreement shall include an acknowledgement that the existing Enrollee is liable for violations up to the transfer date and that the new Enrollee is liable from the transfer date on.
4. The Enrollee shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally to the Regional Board within 24 hours from the time the Enrollee becomes aware of the circumstances. The Enrollee shall submit a written report within 5 days, containing a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The written report shall be included with the monitoring report for the period in which the noncompliance occurred, or earlier if requested by the Regional Board. The following occurrence(s) must be reported orally to the Regional Board within 24 hours:
  - a. Any incidences of noncompliance with the authorized MPPP.
  - b. Any violation of any of the prohibitions of this Order or the Enrollment Letter.
5. The Enrollee shall furnish to the Regional Board, within a reasonable time, any information which the Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or an Enrollment Letter, or to determine compliance with this Order or other requirements established by the Regional Board. The Enrollee shall also furnish to

the Regional Board, upon request, copies of records required to be kept by this Order or the Enrollment Letter.

6. The Enrollee shall provide adequate notice to the Regional Board of the following:
  - a. Any new introduction of pollutants to the discharge.
  - b. Any substantial change in the volume or character of pollutants being introduced into the discharge.
  - c. For the purpose of this provision, adequate notice shall include information on:
    - i. The quality and quantity of waste introduced into the discharge,
    - ii. Any anticipated impact due to the change of the quantity or quality of effluent to be discharged to surface waters.
7. All applications, reports, or information submitted to the Regional Board shall be signed and certified in accordance with 40 CFR 122.22 (Attachment C).
8. Except for data determined to be confidential under 40 CFR, Part 2, all reports prepared in accordance with the terms of this Order shall be available for public inspection at the offices of the California Regional Water Quality Control Board, San Diego Region and the USEPA, Region 9. As required by the Clean Water Act, Reports of Waste Discharge, this Order, and effluent data shall not be considered confidential.
9. Any person signing a document under *Section H* of this Order shall make the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*
10. Enrollees submitting a General Permit Authorization to discharge under this Order shall notify the agency/municipality that owns, operates, and maintains the storm drain conveyance system that the Enrollee proposes to use as a discharge conveyance system to a surface water.

11. The Enrollee shall submit a written request to terminate enrollment under this Order. A statement has to be included with the request in which the Enrollee certifies that all discharges were terminated.
12. The Enrollee shall submit reports required under this Order to:

California Regional Water Quality Control Board  
San Diego Region  
ATTN: Industrial Compliance Unit  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

Notifications required to be provided to this Regional Board shall be made to:

Telephone - (858) 467-2952, or  
Facsimile - (858) 571-6972

## **I. NOTIFICATIONS**

1. This Order shall become effective 10 days after the date of its adoption, provided the Regional Administrator or Director, USEPA, has no objection. If the regional Administrator or Director objects to its issuance, this Order shall not become effective until such objection is withdrawn.
2. This Order expires on June 11, 2008. However, it will continue in force and effect until superseded by a new permit or rescinded.
3. The Order does not include requirements for storm water discharges associated with construction activity and those activities covered under the Industrial Statewide Stormwater Permit.
4. This Order does not apply to discharges of radioactive materials regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on [Date].

---

JOHN H. ROBERTUS  
Executive Officer  
[Date]

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**MONITORING AND REPORTING PROGRAM NO. R9-2003-0215  
NPDES PERMIT NO. CAG999001**

**GENERAL WASTE DISCHARGE REQUIREMENTS  
FOR  
WASTE DISCHARGES ASSOCIATED WITH MARINA OPERATIONS  
TO  
COASTAL WATERS IN SAN DIEGO BASIN**

**A. PURPOSE**

This monitoring program is intended to:

- a. Determine compliance with NPDES permit terms and conditions.
- b. Determine compliance with water quality objectives.
- c. Determine the effectiveness of Marina Pollution Prevention Plans (MPPPs).

**B. MONITORING REQUIREMENTS**

1. Daily visual observations. The marina operator or designated staff shall conduct daily visual observations at locations where industrial type activity is likely to occur within the boundaries of the facility. Visual observations must be made during daylight hours and shall include the documentations of the following:
  - a. *Weather conditions at the time of monitoring should be recorded.*
  - b. *The daily visual observations shall document the presence of any noncompliance with the MPPP.*
  - c. *Any evidence of discoloration, stains, odors, floating materials, suspended material, oil and grease, turbidity, etc., as well as the source of any discharge shall be recorded.*
  - d. *Records shall be maintained of the visual observation dates, locations observed, observations, and response taken to eliminate unauthorized discharges and to reduce or prevent pollutants from contacting discharges and receiving water bodies. Spills and illicit discharges shall be record as described in Section D of this document.*

- e. A minimum of three storm events with rainfalls greater than one quarter (0.25) of an inch shall be observed annually to ensure the integrity of storm water BMPs.*
  - f. On days when no violations have been recorded, the log shall state that, "No findings were observed."*
- 2. Quarterly observations and evaluations. The marina operator shall conduct quarterly comprehensive site compliance evaluations. Evaluations shall include the following:
  - a. A count of the numbers of occupied slips and unoccupied slips at the marina and the date of the observation.*
  - b. A review of all visual observations records and inspection records.*
  - c. A visual inspection of all potential pollutant sources for evidence of, or the potential for, pollutants entering surface waters.*
  - d. A review and evaluation of all BMPs to determine whether the BMPs are needed. A visual inspection of equipment needed to implement the MPPP, such as spill response equipment, shall be included.
  - e. An evaluation report that includes, identification of personnel performing the evaluation, the dates of the evaluations, necessary MPPP revisions, a schedule for implementing MPPP revisions, and incidents of non-compliance and the corrective actions taken. All the evaluation reports shall be submitted as part of an annual report, and signed and certified in accordance with the standard provisions
- 3. Annual evaluation. Annually, the discharger shall evaluate the data collected pursuant to the Monitoring and Reporting Program and determine if the data indicates that the discharge has caused or contributed to an exceedance of applicable water quality objectives or impairment of water quality needed for designated beneficial uses in the receiving water body. If the discharger concludes that the beneficial uses or the water quality objectives are not protected by the current MPPP, the discharger shall make revisions to the MPPP to make it protective of water quality. An implementation schedule for these revisions must be included.
- 4. Records retention. The discharger shall retain records of all monitoring information, including copies of all daily observations, reports required by Order No. R9-2003-0215, and this Monitoring and Reporting Program. Records shall be maintained for a minimum of five years from the date of the report. This period may be extended by request of this Regional Board or by the USEPA at any time.

5. Noncompliance Reporting. The discharger shall report in a cover letter all instances of noncompliance at the time monitoring reports are submitted. The reports shall contain the information listed in *Reporting Requirement H.4*.
6. Monitoring results. Monitoring results shall be reported at intervals and in a manner specified in this Monitoring and Reporting Program.
7. Regional monitoring program. The Enrollee is required to participate in a regional monitoring program in cooperation with the applicable Port District or Harbor Authority as specified by the Regional Board.
8. This Regional Board, as appropriate, may modify this Monitoring and Reporting Program.

### C. MONITORING AND REPORTING SCHEDULE AND FREQUENCY

Monitoring reports shall be submitted to this Regional Board according to ***Table 1. Monitoring Report Schedule.***

**Table 1.** Monitoring Report Schedule.

Monitoring Frequency	Reporting Period	Report Due
<b>DAILY</b> Visual observations of the complete facility to insure compliance with MPPP as described in B.1. A summary of findings must be submitted with the quarterly site evaluations.	<b>QUARTERLY</b>  January - March April - June July - September October - December	May 1 August 1 November 1 February 1
<b>QUARTERLY</b> 1. Comprehensive compliance site evaluations as described in D.2. 2. Spill/Illicit discharge log.	<b>QUARTERLY</b>  January - March April - June July - September October - December	May 1 August 1 November 1 February 1
<b>ANNUALLY</b> 1. Evaluation of data and the effectiveness of the MPPP as described in B.3. 2. Revisions to the MPPP (if needed) as described in B.3. 3. Implementation schedule of MPPP revisions.	<b>ANNUALLY</b>  January - December	February 1



Monitoring Frequency	Reporting Period	Report Due
(continued) 4. Annual summary of spills and illicit discharges as described in Section D of this document.		

#### D. SPILL / ILLICIT DISCHARGE LOG

The discharger shall log and report all spills and illicit discharges within and from the marina each quarter, including spills and illicit discharges from vessels that are in the marina for service. The spill / illicit discharge reports shall identify:

- a. the time and date of the spill or illicit discharge;
- b. the cause of the spill or illicit discharge;
- c. the materials or wastes involved in the spill or illicit discharge;
- d. the estimated volume of the spill or illicit discharge;
- e. the specific location where the spill or illicit discharge originated;
- f. the physical extent or size of the area(s) affected by the spill;
- g. whether the spill or illicit discharge contained pollutants;
- h. the public agencies notified;
- i. the corrective actions taken; and
- j. the means to prevent or minimize future spills or illicit discharges.

The reports shall be signed by an authorized person as required in Section G.12 of Order No. R9-2003-0215, and shall be submitted quarterly to the Regional Board in accordance with **Table 1** of this Monitoring and Reporting Program.

The discharger shall include in its annual report, a summary of the spills and illicit discharges that occurred in or on its leasehold. The spill/illicit discharge summary report shall indicate the total number of spills and illicit discharges for the year, categorize the spills and illicit discharges, and provide the percentages of each type of spill or illicit discharge in a graphical representation. The summary report shall also indicate the efforts the discharger used in the year to prevent or minimize spills.

Any person signing a document under *Section H* of Order No. R9-2003-0215 shall make the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware*

*that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

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JOHN H. ROBERTUS  
Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

APPLICATION REQUIREMENTS INFORMATION SHEET  
FOR  
GENERAL NPDES PERMIT AUTHORIZATION FOR WASTE DISCHARGES  
ASSOCIATED WITH MARINA OPERATIONS  
TO  
COASTAL WATERS OF THE SAN DIEGO BASIN

This application package applies to discharges associated with marina operations to coastal waters of Del Mar Boat Basin and the Harbors of San Diego Bay, Mission Bay, Dana Point, and Oceanside. This Regional Board has adopted this general NPDES permit which regulates marina discharges, including stormwater discharges associated with marinas in the coastal waters of Del Mar Boat Basin and the Harbors of San Diego, Mission Bay, Dana Point, and Oceanside, not covered under the NPDES Industrial Stormwater Permit No. CAS000001.

1. In order to obtain an authorization to discharge under the terms and conditions of this general permit, the following materials shall be submitted (60 days, or more, prior to the proposed start date is recommended):
  - a. General permit authorization application, and attachments.
  - b. A map showing the exact location of the marina and possible discharge locations (e.g., fueling station, sewage pumpout facility, maintenance areas)
2. All applications, reports, and information submitted shall be signed by a corporate officer, principal executive officer, general partner or ranking elected official. In no case should a consultant or contractor sign any documents.
3. Submit filing fee as specified in Section E of the Application Requirements in Order No. R9-2003-0215.
4. PLEASE SUBMIT THE ORIGINAL APPLICATION/ATTACHMENTS AND ONE COPY. SEND TO:

Industrial Compliance Unit  
Attn: [Name of Individual]  
California Regional Water Quality  
Control Board – San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92124

5. Upon receipt of the above information, staff will review the application within 30 days of receipt. The Regional Board may request additional information that is pertinent to your particular project. Where no additional information is required, the Regional Board will issue an Enrollment letter to the applicant to discharge pursuant to the applicable general permit.

If you have any questions regarding this process, please contact [“name of individual” at XXX-XXX-XXXX]

Attachments:

(1) General Permit Authorization Application

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**GENERAL PERMIT AUTHORIZATION APPLICATION  
FOR  
WASTE DISCHARGES ASSOCIATED WITH MARINA OPERATIONS  
TO COASTAL WATERS OF  
DEL MAR BOAT BASIN AND THE HARBORS OF  
SAN DIEGO, MISSION BAY, DANA POINT, AND OCEANSIDE**

**GENERAL INFORMATION**

**I. OWNER NAME:**

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT: \_\_\_\_\_ PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_ EMAIL: \_\_\_\_\_

**II. MARINA OPERATOR:**

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT: \_\_\_\_\_ PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_ EMAIL: \_\_\_\_\_

**III. IS THIS A RENEWAL OF AN EXPIRING INDIVIDUAL NPDES  
PERMIT?**

☐ YES, ORDER NO. \_\_\_\_\_,  
NPDES PERMIT NO. CA \_\_\_\_\_

☐ NO

**IV. IS THE FACILITY CURRENTLY COVERED UNDER THE STATE-WIDE  
INDUSTRIAL STORM WATER PERMIT NO. CAS000001**

☐ YES

☐ NO

SPECIFIC INFORMATION
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V. IS THE FACILITY PRIMARILY ENGAGED IN OPERATING DOCKING AND/OR STORAGE FACILITIES FOR PLEASURE CRAFT OWNERS?

- ☐ YES  
☐ NO

IF NO EXPLAIN: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VI. IS THE FACILITY ENGAGED IN BUILDING, OR REPAIRING BOAT AND SHIPS?

- ☐ YES  
☐ NO

IF YES EXPLAIN: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VII. IS THE FACILITY PRIMARILY ENGAGED IN THE RENTAL OF SMALL RECREATIONAL BOATS/

- ☐ YES  
☐ NO

VIII. IS THE FACILITY LOCATED IN THE DEL MAR BOAT BASIN OR IN ONE OF THE HARBORS OF SAN DIEGO BAY, MISSION BAY, DANA POINT, OR OCEANSIDE?

- ☐ YES  
☐ NO

IX. THE FACILITY IS IN A (AN):

- ☐ URBAN AREA  
☐ RURAL AREA  
☐ MILITARY BASE

X. RECEIVING WATER INFORMATION

1. DOES THE WASTE DISCHARGED FROM THE MARINA  
DISCHARGE TO (CHECK ALL THAT APPLY):

- ☐ DIRECTLY TO SURFACE WATERS OF THE U.S.
- ☐ INDIRECTLY TO WATERS OF THE U.S. (PROVIDE LOCATION  
AND DESCRIPTION OF CONVEYANCE SYSTEM(S) USED TO  
CONVEY THE DISCHARGE TO SURFACE WATERS.
- ☐ STORM DRAIN SYSTEM [PROVIDE LOCATION AND  
DESCRIPTION OF STORM DRAIN(S)]-ENTER OWNER'S  
NAME: \_\_\_\_\_

2. *DOES THE STORM WATER FROM THE SITE DISCHARGE TO  
(CHECK ALL THAT APPLY):*

- ☐ DIRECTLY TO SURFACE WATERS OF THE U.S.
- ☐ INDIRECTLY TO WATERS OF THE U.S. (PROVIDE LOCATION  
AND DESCRIPTION OF CONVEYANCE SYSTEM(S) USED TO  
CONVEY THE DISCHARGE TO SURFACE WATERS.
- ☐ STORM DRAIN SYSTEM (PROVIDE LOCATION AND  
DESCRIPTION OF STORM DRAIN(S))-ENTER OWNER'S  
NAME: \_\_\_\_\_

3. NAME OF RECEIVING WATER: \_\_\_\_\_

XI. MATERIAL HANDLING/MANAGEMENT PRACTICES

1. TYPES OF MATERIALS THAT WILL BE OR  
ARE HANDLED AND/OR STORED AT THE SITE:

- ☐ SOLVENTS
- ☐ PAINTS (NON-ANTIFOULING)
- ☐ PAINTS (ANTIFOULING)
- ☐ PETROLEUM PRODUCTS
- ☐ SEWAGE
- ☐ HAZARDOUS SUBSTANCES
- ☐ OTHER: \_\_\_\_\_
- ☐ OTHER: \_\_\_\_\_
- ☐ OTHER: \_\_\_\_\_

2. ARE PETROLEUM PRODUCTS (GASOLINE/DIESEL) BEING  
DISTRIBUTED AT YOUR MARINA?

- ☐ YES
- ☐ NO

IF YES PROVIDE ADDITIONAL INFORMATION,

NUMBER OF TANKS: \_\_\_\_\_;

VOLUME OF TANKS: \_\_\_\_\_

3. IF THE PETROLEUM TANKS ARE ABOVE GROUND, ARE THE TANKS REGISTERED WITH THE STATE WATER RESOURCES CONTROL BOARD?

- ☐ YES  
☐ NO  
☐ N/A

4. HAS A SPILL PREVENTION CONTINGENCY AND COUNTERMEASURES PLAN BEEN PREPARED?

CHECK ALL THAT APPLY.

- ☐ YES (SEWAGE PUMPOUT FACILITY)  
☐ YES (FUELING STATION)  
☐ NO (SEWAGE PUMPOUT FACILITY)  
☐ NO (FUELING STATION)  
☐ N/A

PLEASE EXPLAIN YOUR ANSWERS:

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5. PROVIDE INFORMATION RELATED TO THE SIZE AND NUMBER OF BOAT SLIPS WITHIN THE MARINA:

MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_  
MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_  
MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_  
MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_  
MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_



MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_  
MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_  
MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_  
MAX. LENGTH: \_\_\_\_\_; NUMBER: \_\_\_\_\_

**Certification:**

I certify under penalty of law that I am an authorized representative of the permittee and that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the permittee will comply with the terms and conditions stipulated in Order No. R9-2003-0215, including the Monitoring and Reporting Program issued by the Executive Officer of the Regional Board.

Name and Official Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ORDER NO. R9-2003-0215****BASIN PLAN WASTE DISCHARGE PROHIBITIONS**

California Water Code Section 13243 provides that a Regional Board, in a water quality control plan, may specify certain conditions or areas where the discharge of waste, or certain types of waste is not permitted. The following discharge prohibitions are applicable to any person, as defined by Section 13050 of the California Water Code, who is a citizen, domiciliary, or political agency or entity of California whose activities in California, could affect the quality of waters of the State within the boundaries of the San Diego Region.

1. The discharge of waste to waters of the State in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code Section 13050, is prohibited.
2. The discharge of waste to land, except as authorized by waste discharge requirements of the terms described in California Water Code Section 13264, is prohibited.
3. The discharge of pollutants or dredged or fill material to waters of the United States, except as authorized by an NPDES permit or a dredge or fill material permit (subject to the exemption described in California Water Code Section 13376), is prohibited.
4. The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the Regional Board. Consideration would include stream flow data, the degree of treatment provided and safety measures to ensure reliability of facility performance. As an example, discharge of secondary effluent would probably be permitted if stream flow provided 100:1 dilution capability.
5. The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the enrollee is prohibited unless the discharge is authorized by the Regional Board.
6. The dumping, deposition, or discharge of waste directly into waters of the State, or adjacent to such waters in any manner that may permit its being transported into the waters, is prohibited unless authorized by the Regional Board.
7. Any discharge to a storm water conveyance system that is not composed entirely of "storm water" is prohibited unless authorized by the Regional Board. [Federal Regulations 40 CFR 122.26 (b) defines storm water as storm water runoff, snow melt runoff, and surface runoff and drainage.]

8. The discharge of industrial wastes to conventional septic tank/subsurface disposal systems, except as authorized by the terms described in California Water Code Section 13264, is prohibited.
9. The discharge of radioactive wastes amenable to alternative methods of disposal into the waters of the State is prohibited.
10. The discharge of any radiological, chemical, or biological warfare agent into waters of the State is prohibited.
11. The discharge of waste into a natural or excavated site below historic water levels is prohibited unless the discharge is authorized by the Regional Board.
12. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities that cause deleterious bottom deposits, turbidity or discoloration in waters of the State or that unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.

**Order No. R9-2003-0215**

**ATTACHMENT C**

## **Code of Federal Regulations**

### **40 CFR - Chapter I – Part 122**

122.22 Signatories to permit applications and reports

122.41 Conditions applicable to all permits

122.42 Additional conditions applicable to specified categories

For updates please go to the USEPA Office of Water web site at:

<http://www.epa.gov/docs/epacfr40/chapt-I.info/subch-D.htm>

## 40 CFR 122.22

(THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED MAY 8, 2003)

**40 CFR - CHAPTER I - PART 122****§ 122.22 Signatories to permit applications and reports (applicable to State programs, see § 123.25).**

(a) *Applications.* All permit applications shall be signed as follows:

(1) *For a corporation.* By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

**Note:** EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in § 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under § 122.22(a)(1)(ii) rather than to specific individuals.

(2) *For a partnership or sole proprietorship.* By a general partner or the proprietor, respectively; or

(3) *For a municipality, State, Federal, or other public agency.* By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

(b) All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a) of this section;

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(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Director.

(c) *Changes to authorization.* If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d) *Certification.* Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. (Clean Water Act (33 U.S.C. 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*))

[48 FR 14153, Apr. 1, 1983, as amended at 48 FR 39619, Sept. 1, 1983; 49 FR 38047, Sept. 29, 1984; 50 FR 6941, Feb. 19, 1985; 55 FR 48063, Nov. 16, 1990; 65 FR 30907, May 15, 2000]

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(THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED MAY 8, 2003)

**40 CFR - CHAPTER I - PART 122****§ 122.41 Conditions applicable to all permits (applicable to State programs, see § 123.25).**

The following conditions apply to all NPDES permits. Additional conditions applicable to NPDES permits are in § 122.42. All conditions applicable to NPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved State regulations) must be given in the permit.

(a) *Duty to comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

(2) The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The Clean Water Act provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit

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issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

(3) Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

(b) *Duty to reapply.* If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

(c) *Need to halt or reduce activity not a defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) *Duty to mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(e) *Proper operation and maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

(f) *Permit actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(g) *Property rights.* This permit does not convey any property rights of any sort, or any exclusive privilege.



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(h) *Duty to provide information.* The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

(i) *Inspection and entry.* The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

(j) *Monitoring and records.* (1) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

(3) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(4) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136

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unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.

(5) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

(k) *Signatory requirement.* (1) All applications, reports, or information submitted to the Director shall be signed and certified. (See § 122.22)

(2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

(l) *Reporting requirements.* (1) *Planned changes.* The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in § 122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under § 122.42(a)(1).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(2) *Anticipated noncompliance.* The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(3) *Transfers.* This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

(4) *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.

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(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

(5) *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) *Twenty-four hour reporting.* (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See § 122.41(g).)

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See § 122.44(g).)

(iii) The Director may waive the written report on a case-by-case basis for reports under paragraph (1)(6)(ii) of this section if the oral report has been received within 24 hours.

(7) *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under paragraphs (1) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.

(8) *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit

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application or in any report to the Director, it shall promptly submit such facts or information.

(m) *Bypass* -- (1) *Definitions*. (i) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) *Bypass not exceeding limitations*. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (m)(3) and (m)(4) of this section.

(3) *Notice* -- (i) *Anticipated bypass*. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) *Unanticipated bypass*. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).

(4) *Prohibition of bypass*. (i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (m)(3) of this section.

(ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

(n) *Upset* -- (1) *Definition*. *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

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(2) *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (n)(3) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(3) *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (ii) The permitted facility was at the time being properly operated; and
- (iii) The permittee submitted notice of the upset as required in paragraph (1)(6)(ii)(B) of this section (24 hour notice).
- (iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) *Burden of proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof. (Clean Water Act (33 U.S.C. 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*))

[48 FR 14153, Apr. 1, 1983, as amended at 48 FR 39620, Sept. 1, 1983; 49 FR 38049, Sept. 26, 1984; 50 FR 4514, Jan. 31, 1985; 50 FR 6940, Feb. 19, 1985; 54 FR 255, Jan. 4, 1989; 54 FR 18783, May 2, 1989; 65 FR 30908, May 15, 2000]

## 40 CFR - CHAPTER I - PART 122

### **§ 122.42 Additional conditions applicable to specified categories of NPDES permits (applicable to State NPDES programs, see § 123.25).**

The following conditions, in addition to those set forth in § 122.41, apply to all NPDES permits within the categories specified below:

(a) *Existing manufacturing, commercial, mining, and silvicultural dischargers.* In addition to the reporting requirements under § 122.41(1), all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director as soon as they know or have reason to believe:

(1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 µ g/l);

(ii) Two hundred micrograms per liter (200 µ g/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µ g/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.21(g)(7); or

(iv) The level established by the Director in accordance with § 122.44(f).

(2) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) Five hundred micrograms per liter (500 µ g/l);

(ii) One milligram per liter (1 mg/l) for antimony;

(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.21(g)(7).

(iv) The level established by the Director in accordance with § 122.44(f).

(b) *Publicly owned treatment works.* All POTWs must provide adequate notice to the Director of the following:

(1) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA if it were directly discharging those pollutants; and

(2) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

(3) For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(c) *Municipal separate storm sewer systems.* The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under § 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

(1) The status of implementing the components of the storm water management program that are established as permit conditions;

(2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with § 122.26(d)(2)(iii) of this part; and

(3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under § 122.26(d)(2)(iv) and (d)(2)(v) of this part;

(4) A summary of data, including monitoring data, that is accumulated throughout the reporting year;

(5) Annual expenditures and budget for year following each annual report;

(6) A summary describing the number and nature of enforcement actions, inspections, and public education programs;

(7) Identification of water quality improvements or degradation;

(d) *Storm water discharges.* The initial permits for discharges composed entirely of storm water issued pursuant to § 122.26(e)(7) of this part shall require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

(e) *Concentrated animal feeding operations (CAFOs).* Any permit issued to a CAFO must include:

(1) *Requirements to develop and implement a nutrient management plan.* At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards. Permitted CAFOs must have their nutrient management plans developed and implemented by December 31, 2006. CAFOs that seek to obtain coverage under a permit after December 31, 2006 must have a nutrient management plan developed and implemented upon the date of permit coverage. The nutrient management plan must, to the extent applicable:

(i) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

(ii) Ensure proper management of mortalities (*i.e.*, dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

- (iii) Ensure that clean water is diverted, as appropriate, from the production area;
- (iv) Prevent direct contact of confined animals with waters of the United States;
- (v) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;
- (vi) Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States;
- (vii) Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;
- (viii) Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater; and
- (ix) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in paragraphs (e)(1)(i) through (e)(1)(viii) of this section.

(2) *Recordkeeping requirements.* (i) The permittee must create, maintain for five years, and make available to the Director, upon request, the following records:

- (A) All applicable records identified pursuant paragraph (e)(1)(ix) of this section;
- (B) In addition, all CAFOs subject to 40 CFR part 412 must comply with record keeping requirements as specified in § 412.37(b) and (c) and § 412.47(b) and (c).

(ii) A copy of the CAFO's site-specific nutrient management plan must be maintained on site and made available to the Director upon request.

(3) *Requirements relating to transfer of manure or process wastewater to other persons.* Prior to transferring manure, litter or process wastewater to other persons, Large CAFOs must provide the recipient of the manure, litter or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with the requirements of 40 CFR part 412. Large CAFOs must retain for five years records of the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to another person.

(4) *Annual reporting requirements for CAFOs.* The permittee must submit an annual report to the Director. The annual report must include:

- (i) The number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
- (ii) Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);
- (iii) Estimated amount of total manure, litter and process wastewater transferred to other person by the CAFO in the previous 12 months (tons/gallons);



- (iv) Total number of acres for land application covered by the nutrient management plan developed in accordance with paragraph (e)(1) of this section;
- (v) Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous 12 months;
- (vi) Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and
- (vii) A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner. [48 FR 14153, Apr. 1, 1983, as amended at 49 FR 38049, Sept. 26, 1984; 50 FR 4514, Jan. 31, 1985; 55 FR 48073, Nov. 16, 1990; 57 FR 60448, Dec. 18, 1992; 68 FR 7268, Feb. 12, 2003]

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Coastal Marina Permit  
Order No. R9-2003-0215

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